

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 263 be amended to read as follows:

- 1 Page 1, line 1, delete "IC 16-20-1-25.5" and insert "IC 36-1-17".
- 2 Page 1, line 2, delete "SECTION" and insert "CHAPTER".
- 3 Page 1, line 3, delete "Sec. 25.5. (a) A person may file a".
- 4 Page 1, delete lines 4 through 17, begin a new paragraph and insert:
- 5 **"Chapter 17. Open Burning**
- 6 **Sec. 1. This chapter applies only if:**
- 7 **(1) for a county not having a consolidated city, the county**
- 8 **executive adopts an ordinance; or**
- 9 **(2) for a county having a consolidated city, the county**
- 10 **executive issues an executive order;**
- 11 **to apply this chapter in the county.**
- 12 **Sec. 2. For purposes of this chapter, "health officer" means:**
- 13 **(1) for a county not having a consolidated city, a local health**
- 14 **officer as defined in IC 16-18-2-212; and**
- 15 **(2) for a county having a consolidated city, the director of the**
- 16 **division of public health.**
- 17 **Sec. 3. A person may file a written complaint with a health**
- 18 **officer alleging that:**
- 19 **(1) a person in the jurisdiction served by the health officer is**
- 20 **in violation of IC 13-17-9; and**
- 21 **(2) the violation results in a health hazard to:**
- 22 **(A) the person who files the complaint or a member of the**
- 23 **person's household; or**
- 24 **(B) an employee of the person who files the complaint.**
- 25 **Sec. 4. Upon receipt of a written complaint under section 3 of**
- 26 **this chapter, the health officer shall schedule a hearing on the**
- 27 **complaint by:**
- 28 **(1) the local health department; or**
- 29 **(2) the health and hospital corporation.**
- 30 **Sec. 5. The local health department or health and hospital**
- 31 **corporation shall:**

(1) give written notice of the hearing scheduled under section 4 of this chapter to:

(A) the person that files the complaint; and

(B) the person against whom the complaint is filed;

(2) hold the hearing, providing an opportunity for each person referred to in subdivision (1) to be heard and present evidence;

(3) determine the merits of the complaint;

(4) give written notice of the determination under subdivision (3) to each person referred to in subdivision (1); and

(5) if the local health department or health and hospital corporation determines that:

(A) the person against whom the complaint is filed is in violation of IC 13-17-9; and

(B) the violation results in a health hazard to a person described in section 3(2) of this chapter;

issue to the person against whom the complaint is filed a written order to cease the actions that are in violation of IC 13-17-9.

Sec. 6. An order issued under section 5(5) of this chapter is subject to appeal in the circuit or superior court.

Sec. 7. The health officer, local board of health, or health and hospital corporation may enforce an order issued under section 5(5) of this chapter in the same manner that the officer, board, or corporation enforces other orders."

Page 2, delete lines 1 through 29.

(Reference is to SB 263 as printed January 26, 2005.)

Senator HUME